WP(C) 4679/2007
BEFORE
HON'BLE MR. JUSTICE RANJAN GOGOI

The extraordinary jurisdiction of this Court has been sought to be invoked by the petitioner who is the plaintiff in T.S. No. 8/06(re-numbered as T.S. No. 18/06). The said suit originally filed in the court of Civil Judge (Sr. Division), Morigaon has been transferred to the court of Civil Judge (Jr. Division), Morigaon on account of enhancement of the pecuniary jurisdiction of the civil courts.

The grievance raised in the writ petition is that after transfer of the case to the court of Civil Judge (Jr. Division), Morigaon, there has been no progress in the case whatsoever. According to the petitioner, written statements have not been filed and no effective orders have been passed by the Court to ensure timely and expeditious disposal of the suit.

To verify the aforesaid facts the Court had called for the records of the suit in question. A mere reading of the said records including the order sheets would go to show that written statement of all the contesting parties have been filed and on various dates judicial orders have been passed to make the suit ready for trial. Presently, the suit is pending for framing of issues and in this regard draft issues have been filed by the respondents/ defendants.

The facts revealed by the records of the suit belie the contention advanced by the petitioner that no progress has been made in the suit. The petitioner as plaintiff must have received copies of the written statement filed by the defendants. Mr HG Baruah, learned counsel for the petitioner has tried to satisfy the Court that there are two suits between the same parties i.e. T.S. No. 8/06 and T.S. No. 18/06 and written statement has been filed in T.S. No. 18/06 and not in T.S. No. 8/06. The above statement is factually incorrect inasmuch as, as already recorded there is only one suit which was originally registered as T.S. No. 8/06 in the court of Civil Judge (Sr. Division), Morigaon and, thereafter, re-numbered as T.S. No. 18/06 in the court of Civil Judge (Jr .Division), Morigaon. The plaintiff had also filed a petition under Section 151 of the CPC seeking certain orders, which the learned counsel contents to be the plaint in T.S. No. 18/06. This is plainly unacceptable as the said petition is a miscellaneous proceeding in T.S. No. 18/06 (re-numbered).

The above facts make it abundantly clear that resort to the extraordinary jurisdiction of this Court has been sought to be invoked on incorrect facts and on flimsy grounds. I, therefore, dismiss this writ petition by imposing a cost of Rs. 2500/- on the petitioner/plaintiff which will be deposited before the learned Trial Court. The Trial Court naturally will be under an obligation to take all necessary steps to ensure expeditious disposal of the Title Suit as per its calendar.

The writ petition stands disposed of in terms of the above order.

The records of the Title Suit be sent back to the learned Trial Court forthwith.